



December 21, 1999

Ms. Joni Vollman
Assistant County Attorney
County of Harris
201 Fannin Ste. 200
Houston, Texas 77002-1901

OR99-3706

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130726.

Harris County (the "county") purportedly received a request for the district attorney's prosecution file for a specified suspect. You have supplied what you contend is responsive information to this office for review, claiming that it is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.

The Public Information Act requires a governmental body that wishes to withhold requested information to provide to this office a copy of the written request for information, within ten business days of its receipt of the request for information. Gov't Code § 552.301(b). If the governmental body does not comply with this requirement, the requested information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. Gov't Code § 552.302. Such a compelling reason is demonstrated where information is made confidential by other law, or where third party interests are at issue. Open Record Decision No. 150 (1977).

You indicate that a written request for information was received by the county "on or about October 11, 1999." You have not submitted a copy of this request to this office. Therefore, you have not complied with the requirements of section 552.301 of the Government Code. Section 552.108, as argued here, does not implicate the interests of third parties, or raise confidentiality issues. Therefore, none of the responsive information may be withheld under section 552.108. *See* Open Records Decision No. 473 (1987). Section 552.101 of the Government Code excepts confidential information from disclosure. Your argument under this section will be addressed.

Section 552.101 requires withholding information made confidential by law. This provision encompasses information made confidential by statute. Section 411.083 of the Government Code deems confidential criminal history report information (“CHRI”) that the Department of Public Safety (the “DPS”) maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov’t Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in Chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release the information except as provided by Chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. The information submitted as exhibit B appears to be CHRI and must be withheld. You are cautioned that release of all confidential information is prohibited. Gov’t Code § 552.352.

Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or “related record” may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the records here are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained pursuant to any provision of law, enacted on or after October 1, 1990.

The submitted documents include information excepted under section 552.130 of the Government Code. This section governs the release and use of information obtained from motor vehicle records, and provides in relevant part as follows:

- (a) Information is excepted from [required public disclosure] if the information relates to:
 - (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
 - (2) a motor vehicle title or registration issued by an agency of this state[.]

You must withhold driver's license numbers, VIN numbers, and license plate numbers pursuant to section 552.130 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

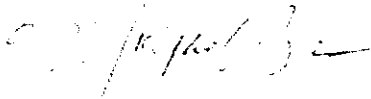
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael Jay Burns", with a horizontal line extending to the right.

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 130726

Encl. Submitted documents

cc: Ms. Sandra Bourgeois
10226 Glenkirk
Houston, Texas 77089